From: David Beugli <wghoga@gmail.com>
Sent: Monday, October 27, 2025 11:53 AM
To: DOH WSBOH Shellfish <shellfish@sboh.wa.gov>
Subject: Proposed amendments to chapter 246-282 WAC.

External Email

Please see attached comment letter sent on behalf of the members of the Willapa-Grays Harbor Oyster Growers Association.

--
David Beugli
Executive Director
Willapa-Grays Harbor Oyster Growers Association
2907 Pioneer Rd.
Long Beach, WA 98631
wghoga@gmail.com
(360)-642-3755

Willapa-Grays Harbor Oyster Growers Association
P.O. Box 3 Ocean Park, WA 98640

October 27, 2025

Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990

Dear Washington State Board of Health,

The Willapa Grays Harbor Oyster Growers Association (WGHOGA) appreciates the opportunity for an informal review of the proposed rule changes and updates to the Sanitary Control of Shellfish WAC 246-282. The Washington Department of Health (DOH) has done an exemplary job of working with shellfish farmers of all sizes to gain a better understanding of common farming practices and the potential impact of proposed rules on their operations. We especially appreciate DOH's willingness to conduct several meetings with both large and small farmers, which has facilitated a deeper understanding of their practices and allowed for the incorporation of this input into improved rule-making.

Upon our review of the proposed changes and updates to the Sanitary Control of Shellfish WAC 246-282, we respectfully request the following considerations.

When considering changes to the Vibrio parahaemolyticus control plan efforts, it is critical that changes align with the National Shellfish Sanitation Program (NSSP) model ordinance. WGHOGA members supported the data collection requirements under WAC 246-006 with the assurance that the data would be utilized to conduct a risk assessment, specifically for calculating a risk per serving. This information could then be used to evaluate the effectiveness of these rules in protecting public health and to transition toward an actual risk-based management objective. Additionally, if reporting utilization type will not be used to support a risk assessment, it should not be collected unless the results are specifically used for improving public health and safety.

As we have previously discussed, defining seed size by length is not practical for bottom culture operations on the coast, where "seed" is considered a product not yet ready for market. For bottom culture meat oysters, seed beds are distinct from harvest beds and will not produce a marketable oyster. Farmers have routinely moved oysters from seed and transplant beds to harvest beds within the same estuary for decades. This activity has never been considered or treated as a harvest because these oysters, while large are considered seed by farmers, are not yet filled out and ready for market. The addition of new language defining transplant,

Willapa-Grays Harbor Oyster Growers Association
P.O. Box 3 Ocean Park, WA 98640

transplant activities, and record keeping intended to better define and track the movement of extra-large seed will necessitate substantial outreach efforts. Many farmers already record this type of information but are unlikely to be aware of these specific changes, how the data should be collected, and how long the records must be retained.

WGHOGA appreciates DOH's hard work in developing proposals that protect human health and ensure the continued robustness of Washington's state shellfish industry. However, it is always important to carefully align any changes with the NSSP model ordinance. Failure to adhere to national policy will place shellfish farmers at an economic disadvantage, and any changes should prioritize actual risk as determined through a rigorous risk assessment.

Thank you for your consideration.

Sincerely,

David Beugli

David Beugli

From: Bill Dewey <BillD@taylorshellfish.com>
Sent: Monday, October 27, 2025 3:30 PM
To: DOH WSBOH Shellfish <shellfish@sboh.wa.gov>
Cc: Toepelt, Danielle M (DOH) <danielle.toepelt@doh.wa.gov>
Subject: Taylor Shellfish Farms comments on CR-102 revisions to WAC 246-282

External Email

Please find attached, comments from Taylor Shellfish Farms on CR-102 revisions to WAC 246-282.

Thank you,

Bill Dewey
Director of Public Affairs

130 SE Lynch Rd., Shelton, WA 98584
W: 360-432-3334 | C: 360-790-2330
taylorshellfish.com | tayloroysterbars.com

October 26, 2025
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990
Submitted via email: shellfish@sboh.wa.gov

Re: Comments on CR-102 Proposed Changes to WAC 246-282

Dear State Board of Health Members,

Thank you for the opportunity to provide additional comments on the proposed revisions to WAC 246-282. We appreciate the Department and Board of Health's willingness to engage with industry throughout this process making several positive changes in the April draft in response to comments Taylor Shellfish and others in the industry have provided.

We share a common goal of providing shellfish that is safe to consume. The collaborative relationship we have built over time with the Department of Health (DOH) shellfish program staff,essential to the success of the program, has been challenged at times during this and the fee rule update. I want to reassure DOH staff and the Board of Health (BOH) that Taylor Shellfish Farms remains committed to a solid and communicative relationship and preserving Washington's reputation of having the most effective oversight program in the country. In light of the state's current fiscal shortfalls, as well as international market uncertainties for aquaculture producers, it is more important than ever to work together to ensure essential programs are maintained and cost effective.

We encourage DOH to work with industry and the legislature going forward to consider recommendations from the LEAN review conducted by Greene Economics. It may be that there are efficiencies that can be achieved that will reduce costs and improve the program.

Specifc to the CR-102 please consider the following comments:

WAC 246-282-006 – Vibrio parahaemolyticus Control Plan

Section (2) exempts shucked and PHPd product from sections (3) - (23), then immediately following in section (3) it requires reporting of quantities of processed (shucked and PHPd oysters). This should be corrected for consistency.

We recognize that the Model Ordinance says that states completing their annual Vp risk evaluation shall consider "the quantity of harvest from the area and its uses i.e. shucking, half-shell, PHP.". In considering shucked and PHPd oyster quantities they should be weighted accordingly as the risk of illness from them is nominal compared to those destined for raw consumption. If not discounted, then risk per serving will be artificially low and potentially reduce public health protection.

Section (9)(d)(ii) requires oysters in a container or conveyance to be returned to approximately the same tidal level or lower than where they were collected. We understand and support the rationale

for this requirement. That said, it will be virtually impossible to enforce. Another approach you might consider could be to specify maximum tidal elevations for various regions of the state that accounts for the varying tidal amplitudes. For example, maybe +3 in SW Washington, North Sound and Hood Canal and +6 in Southern Puget Sound. This would be easier to enforce. Tidal apps will tell an enforcement officer what the current tidal elevation is for various locations and allow them to confirm compliance.

WAC 246-282-010 – Definitions

(16) – Mooring Area: The definition should match the 2023 NSSP Model Ordinance, which defines "mooring area" as more than 20 boats with marine sanitation devices. The current proposed threshold of 10 is more stringent than the national standard and should be revised to 10 for consistency.

WAC 246-282-016 – Aquaculture

Section (2)(c) - Seed growth in a flupsy is fast and variable during the growing season. It would not be uncommon, unless you are grading every few days, to have more than 5% exceed maximum seed size. We recommend this be changed to 10%. We are also concerned about requiring depletion when that percentage is exceeded. Depletion is not defined. If it is interpreted to mean destruction, that can amount to tens if not hundreds of thousands of dollars of loss which seems extreme considering there has been no examples provided to date of public health issues arising from seed from nurseries in prohibited areas. The 2023 MO says the Authority shall establish appropriate corrective actions for when seed exceeds the maximum seed size when it has been produced in waters classified as prohibited. Depletion is not required by the MO. The operator is required to have an operational plan for seed production in prohibited areas. Why can't an appropriate corrective action approved by the authority be to plant it with appropriate controls to demonstrate it has ongrown for 120 days. Perhaps require meat testing or something beyond record keeping to give DOH added assurance the product is safe.

Section (2)(e) - Amend to read: "Shellfish are moved to Approved or Conditionally Approved areas for a minimum of 120 days <u>while</u> in the open status. <u>Days when growing areas are in the closed status due to biotoxins, vibrio or non-confimed pollution closures can be included in the 120 day minimum.</u>" Adding this language makes it clear that days when an area my be closed due to non-pollution related issues (e.g. HABs or vibrio), or in Samish Bay when there are closures that not pollution confirmed by river sampling and reopened immediately can be included in the 120 day minimum.

Sections (3)(a) and (b) – We commented previously and remain concern about confusion that may be created with the use of the word "lot". It is a common term defined in the Model Ordinace relative to harvest for sale for consumption ("no more than one day's harvest"). We recommend an alternative word such as "crop" to replace lot. While the seed in the 1"-1.5" range being planted may be no more than a day's harvest of seed from a flupsy for example, it certainly will be more than a day's harvest when the crop is ultimately harvested for consumption.

Sections (4) – (7) Maximum seed size waiver. Maximum seed size has been a challenging issue to address. We appreciate DOH and the BOH including the option of a waiver for alternative proposals such as width or weight when accompanied by studies to demonstrate they ensure 120 days of ongrowing prior to harvest. We look forward to continuing discussions with DOH regarding alternative approaches to the current imperfect approach of using length. The growing area specific studies will be prohibitively expensive. Perhaps growing region could be considered as an alternative.

WAC 246-282-034 Wild seed permit

Section (4)(e) - Assuming this is attempting to be consistent with the maximum seed size from the aquaculture section, we can't imagine a situation where you would be collecting wild seed where there would not be a mix of everything from newly settled spat to market sized oysters. Similar to the aquaculture section we recommend 10% instead of 5%.

WAC 246-282-044 Transplant

Section (1)(a) – The requirement that a conditionally approved area must be in the open status to transplant out of it remains a significant concern for Taylor Shellfish. Transplanting is a critically important, time sensitive activity. It can be conducted when a conditionally approved area is in the closed status without presenting a human health risk particularly with the other provisions to identify the shellstock per (c) and (d). In addition to being time sensitive for the crop, it is work for employees that would otherwise have hours cut during a closure. The solution DOH has offered in response to this comment previously is that we would need to apply for a relay permit to transplant from conditionally approved in the closed status. Seed is typically transferred to multiple growing areas which would necessitate numerous relay validation studies and permits. While fees were not included in the recent proposed rule update, they were considered in the April 2023 presentation for full cost recovery at $700/permit/year. While not in the current proposed fee increase, it concerns us that it will be in the future. This requirement will have a significan impact on our business when no evidence has been provided that a legitimate public health risk exists.

(1)(b) - Requiring beds be designated on the harvest site certificate as an approved transplant site is unnecessary. It adds more work for DOH to approve transplant sites while providing no additional public health benefit. Amend this section to read: "The transplant location is included on a current harvest site certificate"

(1)(e) - Delete "transplant method". It has no public health relevance.

WAC 246-282-080 Identification and records

(4) - This new requirement to include the exact harvest site information as provided on the original harvest tag when retagging shellstock is impractical. There is barely room on tags to include required information currently and will be particularly problematic on smaller sized tags allowed on

units of five pounds or less. All of that information is required to be in the retagging dealers records and is unnecessary on the tags. It will cause confusion in the market place and disrupt markets as dealers use the information on tags to go around wholesalers and buy direct from harvesters. We are also concerned that including this detailed information could increase the risk of poaching, especially for high value shellfish such as geoduck. It exposes detailed information on areas to potentially target.

Thank you for considering our comments. Please feel free to reach out if you have questions or require further clarification.

Sincerely.

Bill Dewey
Director of Public Affairs
(M) 360-790-2330
Email: billd@taylorshellfish.com

From: Derek Epps <derekepps@comcast.net>
Sent: Monday, October 27, 2025 7:32 PM
To: DOH WSBOH Shellfish <shellfish@sboh.wa.gov>
Subject: Comments opposing WAC 246-282 October 2025 language

External Email

Good day SBOH Shellfish program,

Please find attached Seattle Shellfish LLC's PCSGA comment letter strongly opposing unwarranted (without scientific supporting evidence), unconfirming, and unsupported by the National Shellfish Sanitation Program model ordinance, which will cost more WA State to enforce and comply with strict standards than other states, which puts WA State and its shellfish growers at disadvantage to other growers. These the types changes and variations to the Model Ordinance should not be recoverable or expensed back to shellfish growers as regulation for regulation's sake and lacking a valid public health nexus for the amendments or stricter WA State policies.

Make it a prosperous and healthy 2025!!

-D-

_____

Derek Epps
161 E Buffington Ln
Shelton, WA 98584

360.701.4629
derekepps@comcast.net
Please excuse brevity and typos this was sent from a mobile device.

October 23, 2025
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990
Submitted via email: shellfish@sboh.wa.gov

PCSGA
PACIFIC COAST SHELLFISH GROWERS ASSOCIATION

Re: Comments on Proposed Changes to WAC 246-282

Dear State Board of Health Members,

On behalf of the Washington members of the Pacific Coast Shellfish Growers Association (PCSGA), thank you for the opportunity to provide additional comments on the proposed revisions to WAC 246-282. We appreciate the Department of Health's (DOH) willingness to engage with industry throughout this process and to make several positive adjustments since the April draft. The improvements noted in this current version, including corrections to sections 10(d), 16, 17, 18(d), 42, 44, and 50, demonstrate meaningful collaboration and responsiveness to stakeholder input.

That collaborative spirit is vital, particularly now. Washington State faces significant fiscal constraints, and DOH is confronting its own budget shortfall. In this environment, regulatory provisions that exceed the National Shellfish Sanitation Program (NSSP) Model Ordinance not only place Washington growers at a competitive disadvantage but also create additional administrative and enforcement costs for an already strained agency. We strongly urge the Board to align Washington's rules with the NSSP and to refrain from adopting requirements that go beyond the national standard unless there is clear, evidence-based justification and an identified public health need.

Below are PCSGA's specific comments on the October 2025 draft:

WAC 246-282-006 – Vibrio parahaemolyticus Control Plan
(3) – Consistency Issue: Section 2 exempts shucked and post-harvest processed oysters from reporting, yet "process" and "processing" were added in Section 4. If interpreted to require shucked and PHP oysters to report during the VP season, this is inconsistent with the purpose of the rule. Reporting shucked products, most of which are consumed cooked, would distort illness-rate calculations by artificially inflating serving counts and misrepresenting growing-area risk categories.
(20) – Timelines: Please provide defined timelines for waiver decisions similar to the existing timelines for license and control plan reviews.

WAC 246-282-010 – Definitions
(15) & (16) – Mooring Area: The definition should match the 2023 NSSP Model Ordinance, which defines "mooring area" as more than 20 boats with marine sanitation devices. The current proposed threshold of 10 is more stringent than the national standard and should be revised for consistency.

(25) “Seed”: The current 1.5-inch threshold for Pacific oysters remains problematic. The 120-day grow-out period adequately protects public health, and no data shows that smaller oysters create additional illness risk.

(36) “Wet storage”: The language remains inconsistent. The inclusion of “floats” conflicts with the wet-storage permit section and should be clarified to avoid confusion.

WAC 246-282-016 – Aquaculture

(2)(c): The 5 percent threshold for seed size variation should be raised to 10 percent. Growth within nursery bins is not uniform, and minor variations are natural and not indicative of public health risk.

(2)(e): Suggested revision for clarity: “Shellfish are moved to Approved or Conditionally Approved areas for a minimum of 120 days, excluding days in a confirmed pollution closure.”

(4): We appreciate the addition of a waiver option for seed size but reiterate that the 120-day grow-out requirement already satisfies public health needs. Weight-based assessment remains a more appropriate metric for determining readiness and survivability.

WAC 246-282-080 – Identification and Records

(4): The new requirement to list specific harvest sites on shellstock tags exceeds the NSSP and provides no demonstrated public health benefit. In practice, many harvests originate from multiple adjacent sites, making this rule difficult to implement and enforce, particularly for interstate shipments. We request clarification of its purpose and recommend aligning with the NSSP standard to maintain consistency and efficiency.

The shellfish industry is proud to be a partner in safeguarding public health, and we remain committed to science-based, collaborative solutions. We respectfully request that the State Board of Health ensure any future amendments are both necessary and fiscally responsible, avoiding duplicative or above-standard provisions that increase costs for growers and regulators alike.

Thank you for your continued engagement and for considering these comments. PCSGA stands ready to assist in refining these rules to ensure they remain protective of public health while sustaining the viability of Washington’s shellfish industry.

Sincerely,

signed/Derek Epps

Derek Epps

Gooey Duck LLC

Washington State Board of Health

From: Justin Stang <justinstang@PCSGA.org>
Sent: Monday, October 27, 2025 9:58 AM
To: DOH EPH Shellfish Rule <shellfishrule@doh.wa.gov>
Cc: Margaret Pilaro <MargaretPilaro@PCSGA.org>; Alicia Burns <aliciaburns@PCSGA.org>
Subject: Re: Washington State Board of Health Action: Formal Comments and Public Hearing - Sanitary Control of Shellfish

Dear State Board of Health Members,

On behalf of the Pacific Coast Shellfish Growers Association (PCSGA), please find the attached letter providing public comment regarding the proposed revisions to WAC 246-282.

We appreciate the opportunity to participate in this process and respectfully request that these comments be included in the public record for consideration by the Board.

Thank you for your time and attention to this matter.

Regards,
-Justin Stang
Justin Stang (he/him)
Policy Analyst
Pacific Coast Shellfish Growers Association
120 State Ave NE #142
Olympia, WA 98501
(360) 463-0370 (mobile)
www.pcsga.org

October 23, 2025
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990
Submitted via email: shellfish@sboh.wa.gov

PCSGA
PACIFIC COAST SHELLFISH GROWERS ASSOCIATION

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The shellfish industry is proud to be a partner in safeguarding public health, and we remain committed to science-based, collaborative solutions. We respectfully request that the State Board of Health ensure any future amendments are both necessary and fiscally responsible, avoiding duplicative or above-standard provisions that increase costs for growers and regulators alike.

Thank you for your continued engagement and for considering these comments. PCSGA stands ready to assist in refining these rules to ensure they remain protective of public health while sustaining the viability of Washington’s shellfish industry.

Sincerely,
Justin Stang
Policy Analyst
Pacific Coast Shellfish Growers Association

Washington State Board of Health

From: Derek Epps <depps@seattleshellfish.com>
Sent: Monday, October 27, 2025 4:45 PM
To: DOH WSBOH Shellfish <shellfish@sboh.wa.gov>
Cc: Jim Gibbons <jlgibbons@seattleshellfish.com>; Paul Harris <pcharris@seattleshellfish.com>
Subject: Washington State Board of Health comments on WAC 246-282 October 2025

Good day Shellfish Program,

Please find attached Seattle Shellfish LLC's PCSGA comment letter strongly opposing unwarranted (without scientific supporting evidence), unconfirming, and unsupported by the National Shellfish Sanitation Program model ordinance, which will cost more WA State to enforce and comply with strict standards than other states, which puts WA State and its shellfish growers at disadvantage to other growers. Theses are also the types of decision that should not be expensed back to shellfish as regulation for regulation's sake and lacking a valid public health nexus for the amendments or stricter WA State policies.

Make it a prosperous and safe 2025!!

Respectfully,

Derek Epps

_____

Derek Epps
1144 E Johns Prairie Rd
Shelton, WA 98584

360.701.4629 (mobile)
depps@seattleshellfish.com

October 23, 2025
Washington State Board of Health
PO Box 47990
Olympia, WA 98504-7990
Submitted via email: shellfish@sboh.wa.gov

PCSGA
PACIFIC COAST SHELLFISH GROWERS ASSOCIATION

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Thank you for your continued engagement and for considering these comments. PCSGA stands ready to assist in refining these rules to ensure they remain protective of public health while sustaining the viability of Washington’s shellfish industry.

Sincerely,

signed/Jim G\ibbons

Jim Gibbons and Paul Harris

Seattle Shellfish Management

Seattle Shellfish LLC